

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOHN SHAW,

Plaintiff,

No. C 14-1246 NC (PR)

v.

**ORDER CERTIFYING THAT
APPEAL IS NOT TAKEN IN GOOD
FAITH**

ORRY P. KORB, et al.,

Defendants.

On March 17, 2014, Plaintiff filed the instant pro se prisoner complaint under 42 U.S.C. § 1983 alleging the prison official defendants engaged in retaliation against Plaintiff. On May 15, 2014, the complaint was dismissed with leave to amend, and the Court directed Plaintiff to file an amended complaint curing specific deficiencies if Plaintiff could do so in good faith. On June 23, 2014, after having received no further communication from Plaintiff, the Court dismissed this action without prejudice, and entered judgment. Thereafter, on July 14, 2014, Plaintiff filed a request to file a late response, which the Court construed as a motion for reconsideration. In the request, Plaintiff alleged that he had suffered injuries on March 24, 2014, and intimated that because of those injuries, he was unable to meet the Court's deadline. On February 19, 2015, the Court denied Plaintiff's motion on the basis that Plaintiff had failed to satisfy any of the factors in Federal Rule of Civil Procedure 60(b).

Plaintiff has now filed a notice of appeal. The Ninth Circuit Court of Appeals has referred the case to this Court for a determination as to whether Plaintiff's in forma pauperis ("IFP") status should be revoked. Rule 24(a)(3) of the Federal Rules of Appellate Procedure provides that a party granted leave to proceed IFP in district court may continue in that status on appeal unless the district court certifies that the appeal is not taken in good faith. Section 1915(a)(3) of Title 28 of the United States Code similarly provides that an appeal may not be taken IFP if the trial court certifies it is not taken in good faith. "Not taken in good faith"

1 means “frivolous.” *Ellis v. United States*, 356 U.S. 674, 674-75 (1958); *Hooker v. American*
2 *Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002) (order).

3 This Court certifies that the instant appeal is frivolous and not taken in good faith.
4 Accordingly, Plaintiff’s IFP status is hereby REVOKED.

5 The Clerk shall send a copy of this Order to the parties and to the Ninth Circuit Court
6 of Appeals.

7 IT IS SO ORDERED.

8 DATED: March 16, 2015


NATHANAEL M. COUSINS
United States Magistrate Judge